

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

Thomas R. Watson (Bar No. 227264)

555 Twin Dolphin Dr. Suite 560

Redwood Shores, California 94065

(650) 801-5000

Richard W. Erwine (*pro hac vice* pending)

Katherine J. Weall (*pro hac vice* pending)

51 Madison Avenue, 22nd Floor

New York, New York 10010-1601

(212) 849-7000

Attorneys for Plaintiff

INTERNATIONAL BUSINESS MACHINES
CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re IBM Subpoena in the matter of:

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

vs.

PLATFORM SOLUTIONS, INC.

Defendant.

CASE NO. 5:07-mc-80174-JW PVT

Underlying action pending in the United
States District Court for the Southern District
of New York, CASE NO. CV 06-13565 SCR

**DECLARATION OF RICHARD W.
ERWINE IN SUPPORT OF PLAINTIFF
IBM'S ADMINISTRATIVE MOTION
PURSUANT TO LOCAL RULE 79-5(c)
TO FILE UNDER SEAL**

I, Richard W. Erwine, declare as follows:

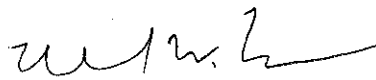
1. I am a member of the bar of the State of New York, and an attorney with Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel for International Business Machines ("IBM") in this action and in the underlying litigation *International Business Machines Corporation vs. Platform Solutions, Inc.*, currently pending in the United States District Court for the Southern District of New York, CASE NO. CV 06-13565 SCR. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. IBM's memorandum of law in support of its Opposition To Hewlett-Packard's Motion To Modify Subpoena And For A Protective Order, filed on October 2, 2007 ("IBM Opposition Brief") contains information considered to be confidential by third-party respondent Hewlett-Packard Company ("H-P"). IBM has not taken a position on whether the materials designated confidential by H-P constitute confidential information, but based on H-P's request, and for the limited purpose of submitting IBM's Opposition Brief, IBM agreed to file these materials under seal.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed this 3rd day of October, 2007 at New York, New York.

By:



Richard W. Erwine

Certificate of Service

The undersigned hereby certifies that copies of the proceeding document has been caused to be served this 3rd day of October, 2007 upon the following counsel of record in the manner indicated.

BY ELECTRONIC CASE FILING

Angelique Kaounis

Gibson Dunn & Crutcher LLP
333 South Grand Avenue, Suite 5100
Los Angeles, CA 90071
Tel: 213-229-7137
Email: akounis@gibsondunn.com

Thomas R. Watson

Quinn Emanuel Urquhart Oliver & Hedges LLP
555 Twin Dolphin Drive, Suite 560
Redwood Shores, CA 94065
Tel: 650-801-5000
Email: thomaswatson@quinnemanuel.com

BY ELECTRONIC MAIL

James Southwick

Susman Godfrey LLP
590 Madison Avenue, 8th Floor
New York, NY 10022
Tel: 212-336-8330
Email: jsouthwick@susmangodfrey.com

Jeffrey Todd Thomas

Gibson Dunn & Crutcher LLP
4 Park Plaza Suite 1400
Irvine CA 92614
Tel: 949-451-3800
Email: jtthomas@gibsondunn.com

Richard W. Erwine

Quinn Emanuel Urquhart Oliver & Hedges LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Tel: 212-849-7135
Email: richarderwine@quinnemanuel.com

Katherine Weall

Quinn Emanuel Urquhart Oliver & Hedges LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
Tel: 212-849-7197
Email: katherineweall@quinnemanuel.com

A handwritten signature in black ink, appearing to read "Andrew B. Curran", written over a horizontal line.

Andrew B. Curran